

VA



U.S. Department
of Veterans Affairs

Office of the General Counsel
Washington DC 20420

In Reply Refer To: 024J
OGC Case #: 01303613/113409
FOIA #19-02513-F

July 30, 2019

Mr. Jasper Craven
MuckRock News
Dept MR 63613
411a Highland Avenue
Somerville, MA 02144-2516

Dear Mr. Craven:

This letter is in response to your letter dated February 25, 2019, addressed to our Office. You wrote to us regarding the FOIA Request 19-02513-F.

Following receipt of your February 25, 2019 letter, we consulted with Mr. Richard Ha, FOIA Officer for Office of the Secretary, Washington, DC. He provided us with a copy of his July 26, 2019, letter addressed to you regarding this FOIA request. A copy of Mr. Ha/ Initial Agency Decision is enclosed for your use.

Based upon the foregoing, we will take no further action on this case unless we hear otherwise from you.

Sincerely,

Tracy Knight

Tracy Knight
Government Information Specialist

Enclosure (1)

cc: Richard Ha, FOIA Officer – OSVA



DEPARTMENT OF VETERANS AFFAIRS
Washington DC 20420

July 26, 2019

In Reply Refer To: 001B
FOIA Request: 19-02513-F

Jasper Craven
MuckRock News
DEPT MR 63613
411A Highland Avenue
Somerville, MA 02144-2516
63613-13377937@requests.muckrock.com; jclarkcraven@gmail.com

Dear Mr. Craven,

This is the Initial Agency Decision (IAD) from Office of the Secretary, U.S. Dept. of Veterans Affairs (OSVA) to your Freedom of Information Act (FOIA) request dated and received November 13, 2018, and assigned FOIA tracking number **19-02513-F**. You requested: "All e-mail correspondence between Bill Frist, former U.S. Senator, and Darin Selnick, David Shulkin, as well as members of current VA senior leadership (detailed here: <https://www.va.gov/opa/bios/>) between May 1, 2017 and present day. Key words include: 'issues,' 'AECOM,' 'partnership,' 'infrastructure,' 'palliative,' 'IT,' 'help' and 'Valor.'"

The VBA FOIA office have processed your FOIA request **19-02515-F** for similar records, as have the NCA FOIA office (**19-02516-F**), VEO FOIA office (**19-02526-F**), OSP (**19-02527-F**), BVA FOIA office (**19-02523-F**). The VHA FOIA office is processing your FOIA request **19-02514-F** for similar records, as are the OCLA FOIA office (**19-02517-F**), CSEMO FOIA office (**19-02518-F**), OPIA (**19-02519-F**), OGC FOIA office (**19-02529-F**), OAWP FOIA office (**19-02520-F**), OIT FOIA office (**19-02521-F**), OEI FOIA office (**19-02522-F**), OALC FOIA office (**19-02525-F**), and OM (**19-02524-F**).

IAD & Reasonable Searches Dated 12/20/18 & 7/25/19

On December 20, 2018, our search-cut off date, the OSVA FOIA Officer requested that the VA OIT office submit all responsive records in its possession. On January 10, 2019, the VA OIT office submitted the emails, with the OSVA to conduct secondary searches.

On July 26, 2019, the OSVA FOIA Officer looked through the below email boxes with the date timeframe of May 1, 2017, to December 20, 2018:

- 1) Robert Wilkie,
- 2) Peter O'Rourke,
- 3) David Shulkin,
- 4) Jim Byrne,
- 5) Thomas Bowman,
- 6) Pam Powers,
- 7) Jacquelyn Hayes-Byrd,
- 8) Vivieca Wright-Simpson, and,
- 9) Darin Selnick.

The OSVA FOIA Officer looked for any emails to, from, or copying Mr. Bill Frist. This search yielded five (5) pages. After reviewing the five (5) pages, OSVA redacts some information with FOIA Exemption 6.

5 U.S.C. § 552(b)(6) exempts from required disclosure "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." FOIA Exemption 6 permits VA to withhold a document or information within a document if disclosure of the information, either by itself or in conjunction with other information available to either the public or the FOIA requester, would result in an unwarranted invasion of an individual's personal privacy without contributing significantly to the public's understanding of the activities of the federal government. Specifically, the information being withheld, as indicated on the enclosed documents, under FOIA Exemption 6, consists of names, identities, email addresses, phone numbers, cellular numbers, and facsimile numbers of: federal employees and private citizens. However, we release the names and VA contact information of VA Senior Executives. Federal employees and private citizens retain a significant privacy interest under certain circumstances, such as in instances where the release of their information could represent a threat to their well-being, harassment, or their ability to function within their sphere of employment. The federal employees and private citizens whose information is at issue have a substantial privacy interest in their personal information. In weighing the private versus the public interest, we find that there is no public interest in knowing the names, identities, email addresses, phone numbers, cellular numbers, and facsimile numbers of: federal employees and private citizens. The coverage of FOIA Exemption 6 is absolute unless the FOIA requester can demonstrate a countervailing public interest in the requested information by demonstrating that the FOIA requester is in a position to provide the requested information to members of the general public and that the information requested contributes significantly to the public's understanding of the activities of the Federal government. Additionally, the requester must demonstrate how the public's need to understand the information significantly outweighs the privacy interest of the person to whom the information pertains. Upon consideration of the records, I have not been able to identify a countervailing public interest of sufficient magnitude to outweigh the privacy interest of the individuals whose names are redacted. The protected information has been redacted and (b)(6) inserted. "Withholding a telephone number or e-mail address, alone, is not sufficient to protect that [privacy] interest; alternate means of contacting and harassing these employees would be readily discoverable on the Internet if this court ordered their names disclosed." Long v. Immigration & Customs Enft, 2017 U.S. Dist. LEXIS 160719 (D.C. Cir. 2017).

FOIA Mediation

As part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. Under the provisions of the FOIA Improvement Act of 2016, the following contact information is provided to assist FOIA requesters in resolving disputes:

VA Central Office FOIA Public Liaison:

Name: John Buck

Email Address: vacofoiaservice@va.gov

Office of Government Information Services (OGIS)

Email Address: ogis@nara.gov

Fax: 202-741-5769

Mailing address:

National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740-6001

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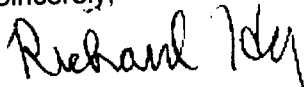
FOIA Appeal

This concludes OSVA's IAD to FOIA request **19-02513-F**. Please be advised that should you desire to do so, you may appeal the determination made in this response to:

Office of General Counsel (024)
Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420

If you should choose to file an appeal, please include a copy of this letter with your written appeal and clearly indicate the basis for your disagreement with the determination set forth in this response. Please be advised that in accordance with VA's implementing FOIA regulations at 38 C.F.R. § 1.559, your appeal must be postmarked no later than ninety (90) days of the date of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Ha".

Richard Ha, JD, CIPP/G
OSVA FOIA Officer

Attachment – five (5) redacted pages